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BEFORE THE
FEDERAL MARITIME COMMISSION

ODYSSEA STEVEDORING OF PUERTO RICO, INC.,

Complainant,

V.

FMC Docket NO. 02-08

PUERTO RICO PORTS AUTHORITY,

Respondent.

COMPLAINANT'S OPENING MEMORANDUM IN COMPLIANCE WITH THE ORDER OF THE COMMISSION SERVED NOVEMBER 22, 2004

Submitted By:

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Odyssea Stevedoring of Puerto Rico, Inc.

Dated: 7 January 2005

INTRODUCTION

COMES NOW, Complainant, Odyssea Stevedoring of Puerto Rico, Inc. (hereinafter referred to as "Odyssea" or "Complainant") in compliance with the Order of the Commission served November 22, 2004, as amended December 22, 2004, directing the parties to submit legal briefs addressing the following issue:

> "Whether Puerto Rico should be treated as a state for the purposes of constitutional sovereign immunity from federal administrative proceedings in light of the origin and purposes of such immunity as explained by the Supreme Court in Alden v. Maine, Federal Maritime Commission v. S.C. States Port Auth., and other relevant Opinions." (Slip OP. at page 6).

The Commission, in its December 22, 2004 Order, explained its November 22, 2004 Order. The Commission stated:

> "There is a degree of uncertainty surrounding Puerto Rico's entitlement to constitutional sovereign immunity. ... the question of whether Puerto Rico is entitled to constitutional immunity from administrative adjudications is a crucial threshold issue."

The Commission noted, as example, the apparent conflict between a decision of the United States Court of Appeals for the First Circuit and a recent decision of the United States District Court for the District of Columbia.[1] The Commission therefore concluded

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[1] The Commission cited Jusino Mercado v. Commonwealth of Puerto Rico, 214 F.3d. 34, 37-39 (1st Cir. 2000) and Rodriguez v. Puerto Rico Federal Affairs Administration, 338 F.Supp.2d. 125 (D.D.C. 2004). The Commission is requesting the parties address the sovereign immunity of the Commonwealth of Puerto Rico "in general". This is an overly broad exercise and inappropriate to the issues at hand. The Commission is correct that should it be determined that the Commonwealth of Puerto Rico lack immunity from federal administrative proceedings, then there would be no need nor requirement that the Commission address the issues of (1) whether or not Respondent is an 'arm of the state', (2) whether or not Respondent has waived the affirmative defense of sovereign immunity, (3) whether or not Respondent has consented to suit, (4) whether or not the factual bases asserted by Respondent have any application or relevance to the issues contained in each of the complaints before the Commission, i.e. simply is the 'activity' of a nature to which sovereign immunity would attach, and (5) whether or not Respondent has standing to assert and litigate sovereign immunity on behalf of the government of Puerto Rico. Complainant by foregoing the discussion of each of these issues is not by this Memorandum waiving the importance, applicability or resolution of

that the briefing of the issue by the parties would assist and advance The Commission's resolution of the proceedings.[2]

SUMMARY OF ODYSSEA'S RESPONSE

The cases cited in the Commission's November 22nd Order are inapplicable to the Commonwealth of Puerto Rico. The case law plainly recognizes that Puerto Rico is not a "State" of the Union. The plain wording of the Eleventh Amendment therefore excludes Puerto Rico from Eleventh Amendment analysis. The cited Supreme Court opinions reflect that the Court was interpreting the Eleventh Amendment on the basis of the history, circumstances and precedent during the 1780-1790s. The Court then applied its historical findings and conclusions to the Court's decision in *Chisholm v. Georgia* to

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the same. These issues will have to be addressed should the Commission or the courts find that Respondent is entitled to sovereign immunity.

[2] The Commission's Order was jointly entered in three docketed cases—Docket Nos. 02-08, 04-01 and 04-06. Odyssea must point out to the Commission that the underlying factual basis for Respondent's 11th hour claim of sovereign immunity DOES NOT EXIST in the complaint proceeding prosecuted by Odyssea. The issues for hearing in Docket No. 02-08 were stated by Judge Trudelle in her Order on Summary Judgment dated November 9, 2004, see; Odyssea Stevedoring of Puerto Rico, Inc. v. Puerto Rico Ports Authority, FMC Docket No. 02-08, Ruling On Motion For Summary Judgment, Served November 9, 2004, Slip Op. at pages 38-42. Respondent faintly acknowledges the actual issues in Docket No. 02-08 in its Motion For Summary Judgment dated December 23, 2003 (See Motion at page 40, foot note 187). Respondent has submitted to the Commission a number of pleadings which allege that Odyssea's claims in Docket No. 02-08are 'solely' based upon and involve a forced eviction from Puerta de Tierra as part of the Golden Triangle Project. (See most recently, Respondent's Opposition to Complainant's Joint Petition For Reconsideration of the Commission's Order to Brief the Sovereign Immunity Issue, filed Dec. 15, 2004 at pages 2-3). Respondent is a public corporation and autonomous from the government of the Commonwealth of Puerto Rico. Respondent, on December 15th alleged that all three proceedings "...derive from the decision of the Commonwealth of Puerto Rico to redevelop the waterfront of the Port of San Juan as part of the Golden Triangle urban development project and the order of the Commonwealth's Governor to demolish the warehouses along the Puerta de Tierra portion of the port. In executing these land use and economic development functions, the Ports Authority acted purely as an arm of the state obeying the direct order by the Governor". A comparison of the issues and facts contained in Judge Trudelle's November 9, 2004 Order reveal that the only connection between this case and the "relocation" from Puerta de Tierra involves the question of whether or not Respondent made misrepresentations regarding the repairs that would be made to Piers 15 and 16. It must also be noted that "Land Development" is the sole responsibility and under the control of Puerto Rico "Land Authority". This is a department separate and distinct from Respondent, as well as from the Office of the Governor. The Land Authority was created in 1941 pursuant to Chapter 31 of Title 28 of the Laws of Puerto Rico. 28 L.P.R.A. 241 et seq. The Land Authority has exclusive power to engage in land condemnation, demolition and construction. See, 28 L.P.R.A. sec. 269 to 275. Respondent has not only been prosecuting endless motions based upon factual grounds that do not exist in the underlying Commission proceedings, but is now representing to the Commission that Respondent has the power and authority to act as the Land Authority.

reach the result contained in *Alden v. Maine*. The discussions, including references to Federalist Papers and the like, all speak to the "States" and the States expectations regarding sovereign immunity—the concept of a territory was not considered in that discussion. The idea that the Eleventh Amendment would or could include within its "rationale" a territory would negate other provisions of the Constitution regarding the ratification and admission of States. The territories clause and admissions provisions are two examples of provisions that would be rendered superfluous by extending the application of the Eleventh Amendment to entities that are not "States of the Union".

The Constitution reflects the relationship between (1) the federal government and the people, (2) the federal government and the States, and (3) the States and the people. The Constitutional cases note that the federal government is given certain powers, including the power to administer any territories acquired by the United States. Puerto Rico is NOT a State. That is a given fact. Puerto Rico has been subjected to the governance of the United States in three ways—(1) through the territories clause, (2) through the Commerce clause, and (3) through the concept of a "Compact". The existing Compact between Puerto Rico and the United States now governs and "controls" the legal relationship and is binding on both parties to the Compact.

In 1950 Congress enacted legislation which constituted and is identified as a "Compact" which Congress then 'offered' to Puerto Rico. A Compact is a "contract" involving at least two consenting parties. Puerto Rico accepted the terms of the Compact by "ratification" of the Compact on February 4, 1952. Congress, by way of a Joint Resolution accepted Puerto Rico's ratification with minor change. Puerto Rico and Congress both consider and treat the resultant relationship as if it were an "agreement".

Puerto Rico, as part of its acceptance and ratification of the Compact, agreed to be bound by all United States statutory laws "not locally inapplicable" (48 U.S.C. sec. 734). This amounts to a contractual waiver/consent by Puerto Rico. The Puerto Rico Federal Relations Act, which embodies the Compact, superceded the Organic Act of 1917, with minor exception of a few re-enacted/carry forward provisions. The Organic Act of 1917, on the other hand, repealed the Organic Act of 1900 en toto. The 'precedent' upon which many judicial opinions (of Puerto Rico sovereign immunity) are either (1) based in the Organic Act of 1900, (2) were decided prior to the Puerto Rico Federal Relations Act, or (3) fail to recognize the import of the Compact—the courts generally overlook the point that the PRFRA is a "MUTUAL Agreement" which Congress further sanctioned by statutory enactment. PRFRA does not involve any issue of unilateral "abrogation of immunity" but is instead the embodiment of a mutual and binding contract.

Based upon the above discussion, it may be concluded that Puerto Rico has consented to the application of federal law on any 'non-local' matters. The question of the existence of Puerto Rican sovereign immunity imports only as to "local matters" and is of no consequence to this Commission.

ARGUMENT

(I)
PUERTO RICO DOES NOT HAVE 'ALDEN' IMMUNITIES

The question presented appears to speak to the alleged sovereign immunity of the Commonwealth of Puerto Rico rather than the alleged 'arm of the State' contentions of Respondent. It is submitted that the issue is more circumspect than Puerto Rico's immunity "in general". It is not a matter of 'generalized immunity' but a question of

whether or not Puerto Rico may claim sovereign immunity to the enforcement of the laws of the United States as set forth in the Shipping Act of 1984.[3]

The case involving the South Carolina Ports Authority is not applicable as it was therein acknowledged that the Ports Authority was an arm of the State of South Carolina. Cf. *Federal Maritime Commission v. South Carolina Ports Authority*, 535 U.S. 743, 751, foot note 6, (2002). Neither of the cases cited address the scenario of whether or not a territory, which is not a State within the plain wording of the Eleventh Amendment, may nevertheless obtain the benefit of the rationale underlying that Amendment. It is submitted that the decision of the court in *Alden v. Maine*, 527 U.S. 706 (1999) can not be applied to Puerto Rico. The case involved a lengthy interpretation of United States history, practice, precedent, document drafts, even debates and the Federalist Papers. The Court placed a broader interpretation on *Chisholm v. Georgia*, 2 Dall. (U.S.) 419 (1793). See, 527 U.S. at 722-723, 728-730. The court took the position that ..."the States, although a Union, maintain certain attributes of sovereignty, ..." 527 U.S. at 730. The Court explained its reasoning as being based upon the system of federalism established by the Constitution. The Court in fact relied upon the structure of the Constitution combined with contemporaneous historical materials to reach the result it did. Puerto Rico, which is not a State, can not take advantage of the Eleventh Amendment as written—nor as broadly interpreted by *Alden v. Maine*, supra. The situation with Puerto Rico is factually inapposite that of the State of Maine and the other States of the Union. It is not appropriate to extend the rationale of *Alden v. Maine* to the Commonwealth of

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[3] The Shipping Act of 1916 existed at the time of the Puerto Rican ratification of the 1950 Compact in February 1952. The 1916 Act applied to Puerto Rico. The 1984 Shipping Act now contains a definition of the United States which specifically includes "Puerto Rico". Congress has made the 1984 Act applicable to Puerto Rico. Under existing case law, such Congressional enactments made specifically to include application to territories such as Puerto Rico, take precedent and are controlling.

Puerto Rico without the necessary predicate factual foundation. The Commission would have to find the same kind and level of 'evidence' employed by the Supreme Court in the Court's decision in *Alden v. Maine*. The Commission would then have to apply that evidence to the Compact between the United States and Puerto Rico. The Court's opinion in *Federal Maritime Commission v. South Carolina Ports Authority*, supra, aside from the factual distinction noted above, is simply a restatement of the *Alden v. Maine* decision. See, 535 U.S. at 753.

(II)

THE COMMISSION MAY NOT RELY ON ABROGATION CASES

The question raised by the Commission is not resolved by argument and discussion of "abrogation" cases. Abrogation involves a situation wherein the federal government allegedly imposes its will, through a federal statute, upon an otherwise "non-consenting" State. The Commission's question, while overly broad, can be answered by looking to the legal foundation for Puerto Rico's present status. Puerto Rico is a "commonwealth". The United States Government has substantial control over Puerto Rico through (1) the Commerce Clause, (2) Territories Clause, and more importantly (3) the Puerto Rico Federal Relations Act, 48 U.S.C. 731 et seq. ("PRFRA").

Puerto Rico was subjected to the Organic Act of 1900 and the Organic Act of 1917. These statutes were superceded by PRFRA, effective on July 3, 1950, 64 Stat. 319 (P.L. 600). Public Law 600 states that it is a "compact" offered to the people of Puerto Rico. The people of Puerto Rico "accepted" the compact. See Public Law No. 447, 66 Stat. 327, H.J. Res. 430, adopted and approved March 3, 1952. Public Law No. 447 likewise identified the PRFRA as a "compact" between the United States and the people of Puerto Rico. The Constitutional Convention of Puerto Rico issued Resolution Number 23 (see

Attachment No. 1 hereto) on February 4, 1952. That Resolution likewise identified the relationship between the United States and Puerto Rico as a "compact". Further, paragraph Third(b) noted that Puerto Rico was to be "organized in a commonwealth established within the TERMS OF THE COMPACT ENTERED INTO BY MUTUAL CONSENT, WHICH IS THE BASIS FOR OUR UNION WITH the United States of America". The controlling document is therefore the "Compact". As will be more fully explained below, a compact is a contract or agreement between "consenting" parties—there is no "abrogation of Puerto Rico's sovereignty. Puerto Rico by way of PRFRA freely submitted to all laws of the United States that were not "local' in application.[4]

It is plain that Puerto Rico may not take 'literal' advantage of the 11th Amendment. Puerto Rico is not a State. Secondly, no one can possibly contend that United States territories were considered to have access to and to have the same benefits of "States of the Union" without actually becoming a State under the process established by the United States Constitution. See, as example, *Balzac v. People of Porto Rico*, 258 U.S. 298 (1921). In *Balzac* the Supreme Court held that the Organic Act of 1917 did not incorporate 'Porto Rico' into the "Union". 258 U.S. at 305. Further, that the provisions of

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[4] The Supreme Court in Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 668, foot note 5 (1974) noted that the "Joint Resolution" of Congress which approved the Puerto Rican Constitution subjected the Puerto Rican government to the applicable provisions of United States law. The Supreme Court in Torres v. Puerto Rico, 442 U.S. 465, 472-473 (1979) acknowledged the "unique political status" of Puerto Rico, but then went on to hold that "Puerto Rico has no sovereign authority" to control its own borders such activities being reserved to the U.S. federal government. It is important to note that various Constitutional Amendments have been extended to the "people"—not to the "government" of Puerto Rico. This is consistent with both the U.S. Constitution Bill of Rights and the Puerto Rico Constitution Bill of Rights. It is a importance to note that Congress in the Joint Resolution (Public Law 447. 66 Stat. 327, March 3, 1952) made some changes to the Puerto Rico Constitution. Had Congress intended to extend governmental sovereign immunity to the proposed Commonwealth government, Congress would have done so. Congress withheld sovereign immunity to United States laws by omitting a comparable 11th Amendment provision from the Puerto Rico Constitution. If the Commission were to find such immunity, the Commission would not only be engaged in wholesale revision of a Compact (which not even the United States Supreme Court may do), but the Commission would be acting contrary to the obvious intent of Congress and Puerto Rico Constitutional structure.

the United States Constitution did not, without legislation, apply to territories. The Court noted that had Congress intended to incorporate 'Porto Rico' into the Union, they would have done so by "plain declaration" and would not have left such a matter to "mere inference". The Court thereafter concluded that:

> "On the whole, therefore, we find no features in the Organic Act of Porto Rico of 1917 from which we can infer the purpose of Congress to incorporate Porto Rico into the United States, with the consequences which would follow."
> (258 U.S. at 313)

The Organic Act of 1900 was repealed in full by the Organic Act of 1917. The original Supreme Court precedent which pronounced some form of Puerto Rico sovereign immunity occurred prior to the repeal of the 1900 Organic Act. In fact, many of the cases that were decided after 1917 simply relied upon the pre-1917 precedent/rulings. In any event, these pre-1952 Supreme Court cases, as well as all prior law, have been superceded by the 1952 Compact. If Puerto Rico has any sovereign immunity, it must be specifically contained in PRFRA.

(III)
THE COMPACT CONTROLS THE RESOLUTION OF THIS ISSUE

Puerto Rico is subject to United States statutory laws under three distinct types of statutory basis.[5] The history of the Puerto Rico Compact creating the Commonwealth

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[5] The Commission need not address the statutory authority of and power of the United States government under the Commerce clause nor the Territories clause. Odyssea would simply note for the Commission that federal regulatory statutes take precedent over local law (which would theoretically include any alleged residual governmental immunity). Compare; Trailer Marine Transport Corp. v. Rivera Vazquez, 977 F.2d. 1 (1st Cir. 1992); United Parcel Service, Inc. v. Flores-Galarza, 318 F.3d. 323 (1st Cir. 2003); and Puerto Rico Freight System v. Trailer Marine Transport Corp., 6 I.C.C.2d 337 (1989). It is well established that under the Territories clause (U.S. Const. Art. IV, sec. 3, cl. 2) the United States Congress may treat territories, including Puerto Rico differently from "States of the Union". Harris v. Rosario, 446 U.S. 651 (1980). The explanation for this different treatment was noted in Stainback v. Mo Hock Ke Lok Po, 336 U.S. 368, 378 (1948). In Stainback to Court again exposed the legal distinction between territories and 'States'. The court noted that our dual system of government, which requires deference to a State legislative action, is "beyond that required for the laws of a territory". The reason being that "A territory is subject to Congressional regulation". Ibid.

makes clear that a mutually binding agreement was contemplated. The Supreme Court in a landmark decision held that a compact must be construed and applied according to its terms. The Court in *Texas v. New Mexico*, 462 U.S. 554 (1983), and on further hearing in *Texas v. New Mexico*, 482 U.S. 124 (1987) held that (1) a compact is a contract-482 U.S. at 128; (2) that a compact is a 'legal document' that must be construed and applied according to its terms—482 U.S. at 128; (3) that when Congress gives is 'consent' the compact becomes a law of the United States—462 U.S. at 564; (4) that once this "metamorphosis" occurs unless the compact is declared unconstitutional, "NO COURT" may order any relief inconsistent with the express terms of the compact.—462 U.S. at 564. The existence of the compact itself provide federal judicial power to adjudicate any dispute involving the compact.

Section 9 of the Puerto Rico Federal Relations Act, now contained at 48 U.S.C. sec. 734, specifically provides that the "statutory laws of the United States not locally inapplicable" ... "shall have the same force and effect in Puerto Rico as in the United States, ..."[6] Section 9 has been addressed and explained in two decisions of the District Courts. In *United States v. Gerena*, 649 F.Supp. 1183 (D.C. Conn. 1986), the court explained the application of section 9 (sec. 734). The court recognized the 1952 compact and note that section 9 must be construed to ...

> "...mean that federal laws ought not prevail over the law of Puerto Rico in matters of purely local concern; in matters purely of local Concern, federal law is locally inapplicable".
> (648 F.Supp. at 1187).

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[6] In the analysis of this provision, the Commission must be guided by the plain meaning of the words employed. The Commission is obligated to use interpretation standards for contracts—Not statutes. Even though section 9 has been memorialized in a statute, it remains part of a "contract". Puerto Rico if it is to have any immunity from any federal statutory structure, must show that neither Congress nor Puerto Rico intended that federal laws not apply. The burden is not on Odyssea, nor any of the other complainants in the cited Commission proceedings, the burden is on Respondent and on the Commonwealth of Puerto Rico.

However, the District Court also held that the Congress "retained the authority under 48 U.S.C. 734 to include Puerto Rico in the scope of its legislation for matters not purely local. 648 F.Supp. at 1184. Further that to properly exercise this Congressional authority, Congress only need include Puerto Rico within the definition of 'state' under the involved federal law. Ibid. Congress exercised its maritime authority by explicitly including Puerto Rico in the definition of the United States under the Shipping Act of 1984. Federal law thence applies and controls—not any local law or undeclared immunity concept. This approach was also employed by the court in *Hodgson v. Union de Empleados del los Supermercadoes Pueblos*, 371 F.Supp. 56 (D. P.R. 1974). Chief Judge Cancio discussed the 1952 Compact in detail. He noted that it was a compact that was freely entered into by the people of Puerto Rico and Congress—which neither side could unilaterally revoke. 371 F.Supp. at 58-59. The court concluded that the federal regulatory laws applied to Puerto Rico via both the Commerce clause and by reason of section 9 of the Federal Relations Act. The court noted that prior to the 1952 compact, Congress governed Puerto Rico under the Territory clause. Then the Court stated:

> "From July 25, 1952, in which the Commonwealth was born, Puerto Rico ceased being governed by the unilateral will of the Congress; now it is being governed by the express, though generic, consent of its people, through a compact with Congress. Whatever authority was to be exercised over Puerto Rico by the Federal government would emanate thereon, not from Article IV of the Constitution, but from the Compact itself, voluntarily and freely entered into by the people of Puerto Rico, even without an express recognition of its sovereignty, and the Congress; a compact which cannot be unilaterally revoked either by Congress or by the people of Puerto Rico."
> (371 F.Supp. at 59).

The court reviewed the history of the compact and noted that Puerto Rico never asked for nor did the United States ever agree that the federal government's control and laws would

ever be "ousted" from any part of its authority to regulate matters involving interstate commerce. 371 F.Supp. at 61, see as well foot notes 13 through 15. There is no difference between the application of the federal labor laws (which were at issue in Hodgson) and federal maritime commerce statutes.

Odyssea would last call to the attention of the Commission a very recent opinion of the United States Supreme Court which deals with the distinction between "federal" and "state" or local law issues. The Court in *Norfolk Southern Railway Co. v. Kirby, Pty, Ltd.*, Case No. 02-1028 (November 9, 2004), held that federal law governed all matters relating to maritime commerce. (See Slip Op. at page 6). The operations of a marine terminal, involving the loading and unloading of vessels, and the provision of services and facilities thereto, are indeed maritime in nature. There is almost 70 years of FMC case law which hold such matters within the jurisdiction of the Commission. It is too late in the day to challenge the scope of 'maritime transportation activities' and this Commission's regulatory jurisdiction. The application of the *Kirby* and *Hodgson* opinions to the question of Puerto Rico sovereign immunity "in general" leads to the conclusion that there is no immunity from federal laws "not locally inapplicable". Neither Congress nor Puerto Rico reserved nor preserved such immunity in the governing document. Hence, the Commission may not find such any immunity exists under ANY FORM of statutory or 'common/natural law'.

CONCLUSION

In consideration of the above and foregoing, it is hereby respectfully submitted that the Commission should summarily reject the affirmative defense of sovereign immunity that has been raised by the Puerto Rico Ports Authority.

Complainant would further request that the Commission enter such other and further Order as the Commission deems just and appropriate in the circumstances.

Respectfully submitted,

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Certificate Of Service

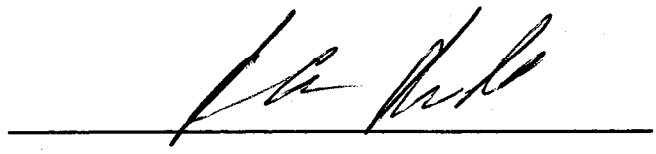
I hereby certify that a copy of this Memrandum has been served, by first class mail, postage prepaid, upon Mr. Lawrence I. Kiern, Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005 this 7th day of January 2005.

CC;
Anne Mickey, Esq.
Matthew Thomas, Esq.

SUPPLEMENT TO CERTIFICATE OF SERVICE

I further hereby certify that I have served a copy of this Memorandum upon Sr. Kenneth Pamias-Velazquez, Deputy Solicitor General, Commonwealth of Puerto Rico, Office of the Solicitor General, P.O. BOX 9020192, San Juan, Puerto Rico 00902-0192.

Dated this 7th day of January 2005.



ATTACHMENT NO. 1

6. Resolution No. 23: Final declarations of the Constitutional Convention of Puerto Rico

WHEREAS, the Constitutional Convention of Puerto Rico, in fulfilling the important mission assigned it by the people, has approved a Constitution for the Commonwealth of Puerto Rico within the terms of the compact entered into with the United States of America;

WHEREAS, in accordance with the terms of the compact, said Constitution is to be submitted to the people of Puerto Rico for their approval;

THEREFORE, *Be it resolved by this Constitutional Convention:*

First: That, pursuant to the relevant regulations, a certified copy of the Constitution as approved be sent to the Governor of Puerto Rico so that he may submit it to the people of Puerto Rico in a referendum as provided by law.

Second: That copies of the Constitution be printed in Spanish and English, respectively, in numbers sufficient for general distribution to the end that it will become widely known.

Third: That the following final declarations of this Convention be entered on its journal and also published:

(a) This Convention deems that the Constitution as approved fulfills the mission assigned it by the people of Puerto Rico.

(b) When this Constitution takes effect, the people of Puerto Rico shall thereupon be organized in a commonwealth established within the terms of the compact entered into by mutual consent, which is the basis of our union with the United States of America.

(c) The political authority of the Commonwealth of Puerto Rico shall be exercised in accordance with its Constitution and within the terms of said compact.

(d) Thus we attain the goal of complete self-government, the last vestiges of colonialism having disappeared in the principle of Compact, and we enter into an era of new developments in democratic civilization. Nothing can surpass in political dignity the principle of mutual consent and of compacts freely agreed upon. The spirit of the people of Puerto Rico is free for great undertakings now and in the future. Having full political dignity the Commonwealth of Puerto Rico may develop in other ways by modifications of the Compact through mutual consent.

(e) The People of Puerto Rico reserve the right to propose and to accept modifications in the terms of its relations with the United States of America, in order that these relations may at all times be the expression of an agreement freely entered into between the people of Puerto Rico and the United States of America.

Fourth: That a copy of this resolution be sent to the President of the United States and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.—Approved in the plenary session held February 4, 1952.